

# Notice of Allowability

Application No.

09/847,061

Examiner

Samuel W Liu

Applicant(s)

YANG ET AL.

Art Unit

1653

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3-11-04.
2. ☒ The allowed claim(s) is/are 7,13,14 and 16-28.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 1-10-02 & 1-29-02
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 3-22-04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### DETAILED ACTION

This Office action is in response to applicant's amendment filed 11 March 2004, which cancels claims 1-6, 8-12 and 15, and amends claim 7. The above indicated amendment has been entered. Note that the references listed in IDS filed 10 January 2002 and IDS filed 29 January 2002 has been considered.

The pending claims 7, 13-14 and 16-28 are therefore examined in this Office action.

### EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Jeffrey Hagenah on March 22, 2004. Applicant agrees the examiner proposed amendment to claims 7, 16-17, 20-28 (see below).

#### Amendments to the claim:

The pending claims 7, 16-17, 20-28 have been amended as follows. Please replace the previous claims with the claim shown below.

Claim 7 (*Twice amended*): (i) before "glycopeptide of formula II" add "modified"; (ii) before "R<sup>17</sup> is hydrogen", add "Within R<sup>20</sup> moiety"; (iii) before "Y is selected from", add "Within R<sup>20</sup> moiety"; (iv) before "each Z is", add "Within R<sup>20</sup> moiety"; (v) after "Z is independently selected from" add "the group consisting of"; (iv) after "heteroaryl and heterocyclic;" add "and x is 1 or 2"; (vii) before "R<sup>b</sup> is selected from", add "Within Y moiety"; (viii) before "each R<sup>d</sup> moiety" add "Within R<sup>c</sup> moiety"; and (ix) before "or a pharmaceutically acceptable salt", delete "x is 1 or 2".

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Claim 16 (*Amended*): (i) after “A method of treating” delete “a mammal having”; and (ii) after “bacterial disease” add “in a mammal”; and (iii) delete “the method” before “comprising to the mammal”.

Claim 17 (*Amended*): (i) after “A method of treating” delete “a mammal having”; and (ii) after “bacterial disease” add “in a mammal”; and (iii) delete “the method” before “comprising to the mammal”.

Claim 20 (*Amended*): after “an –NH- group” add “Z is independently selected from the group consisting of hydrogen, aryl, cycloalkyl, cycloalkenyl, heteroaryl and heterocyclic; and x is 1 or 2.”.

Claim 21 (*Amended*): after “and Y is oxygen” add “Z is independently selected from the group consisting of hydrogen, aryl, cycloalkyl, cycloalkenyl, heteroaryl and heterocyclic; and x is 1 or 2.”.

Claim 22 (*Amended*): after “and Y is sulfur” add “Z is independently selected from the group consisting of hydrogen, aryl, cycloalkyl, cycloalkenyl, heteroaryl and heterocyclic; and x is 1 or 2.”.

Claim 23 (*Amended*): after “R<sup>b</sup> is alkylene” add “Z is independently selected from the group consisting of hydrogen, aryl, cycloalkyl, cycloalkenyl, heteroaryl and heterocyclic; and x is 1 or 2.”.

Claim 24 (*Amended*): after “Z is hydrogen” add “and x is 1 or 2”.

Claim 25 (*Amended*): after “wherein R<sup>20</sup>”, change “is a group of the formula” to “has the structure:”.

Claim 26 (*Amended*): after “wherein R<sup>20</sup>”, change “is a group of the formula” to “has the structure:”.

Claim 27 (*Amended*): after “wherein R<sup>20</sup>”, change “is a group of the formula” to “has the structure:”.

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Claim 28 (*Amended*): after “wherein R<sup>20</sup>” change “is a group of the formula” to “has the structure:”.

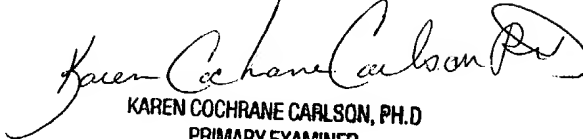
*Conclusion*: claims 7, 13-14 and 16 –28 are allowable over the art of record.

The following is an **Examiner's Statement of Reasons for Allowance**: The prior art of record does not teach or suggest the disclosed glycopeptide as set forth in claim 7 and the method of treating a bacterial disease comprising administering to a subject the said glycopeptide.

Claims 16-17 are drawn into. Claims 7, 13-14 and 18-28 are directed to an allowable product. In consideration of the method claims 16-17, pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), are subject to being rejoined. Process claims 16-17, previously drawn to non-elected invention, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. The claims 7, 13-14 and 16 –28 are therefore allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached at (571) 272-0951. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

  
KAREN COCHRANE CARLSON, PH.D.  
PRIMARY EXAMINER

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Samuel W. Liu, Ph.D.

March 23, 2004